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SENSITIVE
SIPDIS

STATE PASS TO USTR FOR CHRIS WILSON, JASON BUNTIN
STATE PASS TO DOC FOR STEVEN GARRETT
DEPT FOR NEA/ARP, EB/TPP/BTA, E FOR U/S ROBERT HORMATS

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TAGS: [ETRD](#) [KIPR](#) [ECON](#) [EINV](#) [PREL](#) [SA](#)
SUBJECT: POST RECOMMENDS SAUDI ARABIA BE REMOVED FROM 301
WATCH LIST

REF: A. RIYADH 524
[¶](#)B. RIYADH 575
[¶](#)C. RIYADH 789
[¶](#)D. RIYADH 793
[¶](#)E. RIYADH 982
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[¶](#)P. RIYADH 1543
[¶](#)Q. RIYADH 1544

Summary -----

[¶](#)1. (SBU) Embassy Riyadh recommends Saudi Arabia be removed from the Special 301 Watch List for IPR protection during the 2009 Out-of-Cycle Review. As industry's submissions for the OCR have recognized, the Kingdom's motivated leadership on intellectual property protection and demonstrated significant progress on copyright, patent, and data protection merits recognition. Removal from the list will benefit U.S. trade and investment interests and will reward champions in the Saudi government who are sincerely committed to building an effective IPR regime in the Kingdom. End summary.

Motivated Saudi IP team -----

[¶](#)2. (SBU) Saudi Arabia has made significant progress in improving its intellectual property rights (IPR) regime in the past year, in the areas of copyright, patent, data, and trademark protection. The SAG has made this progress largely as a result of the hard work of three officials: Deputy Minister of Culture and Information Abdulrahman Al-Hazzaa; Deputy Minister of Commerce and Industry Abdullah Al-Hamoudi; and Chairman of the IPR Committee Mohammad Al-Aiyash. SAG officials are focused on more than just the 301 process; they are motivated by the King's mandate of transforming the Kingdom into a knowledge-based economy which they recognize requires a strong IP regime. Al-Hazzaa lamented recently that if Saudi Arabia is removed from the Watch List, he will feel "even more pressure to work hard" than if they remain on the Watch List.

Progress on copyright protection

13. (SBU) In the area of copyrights, the Ministry of Culture and Information has conducted raids at a high and steady rate. The Violations Review Committee (VRC) has tried and published cases, making 128 decisions in the past three months alone. The Copyright Department holds weekly training sessions with industry, and is eager for more training. The Ministry of Culture and Information now licenses imported satellite dishes, which should curb satellite television piracy. Al-Hazaa has promised to refer at least two copyright cases to the Board of Grievances with a recommendation for deterrent sentencing imminently (ref P). The Ministry is working closely with industry to increase its enforcement capacity and to launch a more robust awareness campaign in the first quarter of 2010.

14. (SBU) On government use of legal software, the Ministry of Commerce and Industry and the Ministry of Culture and Information are drafting a proposal for the King's signature which will recommend that all SAG ministries conduct software audits to ensure they are using legal software. The Ministry of Commerce and Industry is expected to complete its own internal software audit by the first quarter of 2010, and we understand the Culture Ministry has already put in place a system to ensure it is compliant.

Increased patent and data protection

15. (SBU) The SAG's long-awaited implementation of the

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Exclusive Marketing Rights (EMR) agreement following its approval by the King has encouraged the pharmaceutical industry by granting transitional protection for products caught between the SAG's pre-2004 patent system and its new one (ref Q). Although an EMR application is yet to be processed by King Abdulaziz City for Science and Technology (KACST) and the Saudi Food and Drug Authority (SFDA), the Chairman of the Saudi IPR Committee told Econoffs to alert him if any applicant experiences difficulty with the new process.

16. (SBU) The SFDA, which formally opened in August, has repeatedly confirmed its commitment to protecting pharmaceutical research and development data. PhRMA and the Ministry of Commerce and Industry co-hosted a workshop on data exclusivity in June, and are working together to plan a second workshop focused on implementation in the first quarter of 2010. SFDA recently told the Commercial Counselor that they are working on a proposal to introduce jail terms and increase the fine to 5 million SAR for counterfeit medicines. SFDA is also appointing officials at ports of entry to provide expertise to the Saudi Customs Authority on counterfeit medicine.

Strongly recommend removal from 301 Watch List

17. (SBU) The summary of all these details is that Saudi authorities have worked tremendously hard to meet as many of the specific goals we set for them last March to exit the 301 list. They have substantially addressed all but one, and are moving as quickly as the system allows to refer copyright violations to the Board of Grievances for deterrent sentencing. Doing so has required creative precedents and rewiring the system. Industry has praised Saudi progress and knows it is critical to build on the partnerships created at the cost of so much effort.

18. (SBU) As AUSTR Chris Wilson's visit made clear, there is strong political will at the highest levels in the Kingdom to implement a robust and effective IPR regime. Several key officials have worked diligently for several years to make

continued progress and remain determined to provide promised protections to rights-holders. The leadership, including the King, key Ministers, and the Board of Grievances, understand that Saudi Arabia must have an attractive climate for entrepreneurship and investment if it is to reach its ambitious goal of growing its knowledge-economy. Although more work needs to be done, the leadership at the Commerce and Culture Ministries remain sincerely committed to protecting IPR and consistently seeks U.S. public and private sector assistance to further their efforts. Young organizations like the SFDA are proudly modeled on U.S. institutions and are eager to be transparent, efficient organizations. Post strongly recommends the Special 301 Review Committee remove Saudi Arabia from the Watch List. Doing so will remove a speed bump in the Kingdom's ability to attract U.S. foreign direct investment -- which is in the interest of both countries. Removal will also reward the hard work of key partners and motivate them to not only live up to, but surpass the 301 standard.

Ambassador's Comment

19. (SBU) This cable correctly assesses Saudi Arabia's commitment to the protection of IP, and I fully support their removal from the 301 Watch List. I would argue, however, that it is equally in our interest to have them removed. Saudi Arabia is committing massive research and development budgets to the development of their own technology and IP, a by-product of the creation of a culture that respects IP. By keeping them on the 301 list, we will continue to limit participation by U.S. companies due to the impact of 301 on insurance, prohibition of technology transfers, and these opportunities will continue to move in the direction of our competitors. The time has come to remove them from the 301 list.
SMITH